

# EXHIBIT

11

COUNT THREE

COMPLAINT FOR SUPPRESSION OF MATERIAL FACTS

1. Plaintiff incorporates the above Statement of Facts as Paragraph One of this count.

2. Plaintiff herein would state that a confidential relationship existed between him and the Defendant by virtue of special circumstances that would have required the Defendant to disclose to the Plaintiff truthful information with respect to his medical condition and the responsibilities of the Defendant to the Plaintiff.

3. Plaintiff would state that the special circumstances which existed between Plaintiff and Defendant arose from the following facts:

(a) The Defendant herein was the only one receiving medical reports concerning the Plaintiff;

(b) The medical care and treatment which would be provided to the Plaintiff was controlled by the Defendant;

(c) The Defendant had before it Dr. Holworth's recommendation that the Plaintiff have surgery immediately and Defendant knew of the importance of the surgery to the Plaintiff.

(d) Defendant knew that if surgery was not done immediately irreparable harm would result to the Plaintiff.

4. Plaintiff would state that due to the special circumstances which existed between Plaintiff and Defendant as alleged the Plaintiff would state that Defendant was required to disclose truthful information to the Plaintiff and that the following information should have been disclosed to the Plaintiff:

(a) That the Defendant did not have Plaintiff's care and treatment reviewed by an independent medical examiner;

(b) That the Plaintiff had no evidence in its files to deny the Plaintiff medical care and treatment as recommended by Dr. Holworth and Dr. Shirah;

(c) That there was no medical basis for the denial of care and treatment to the Plaintiff as recommended by Dr. Holworth and Dr. Shirah.

5. Plaintiff would state that had he known the truth and had misrepresentations not been made to him by the Defendant he would have sought other care and treatment immediately but he was relying upon the representations of the Defendant with respect to provision of medical care and treatment.

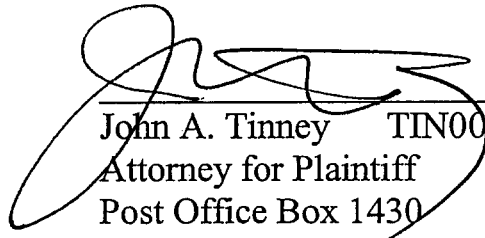
6. As a proximate consequence of the suppression of material facts as alleged by the Defendant, Plaintiff was caused to suffer the following injuries and damages:

(a) He did not have the surgery in a timely fashion that had been recommended;

(b) He has suffered permanent injury and disability as a result of the delay in having surgery recommended by his physicians;

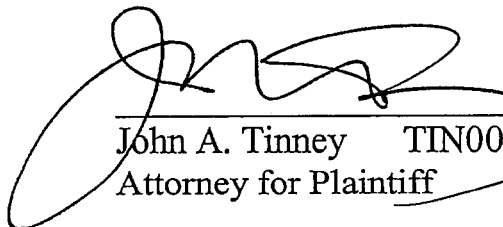
(c) He has suffered emotional distress and anxiety and physical pain and suffering.

WHEREFORE, Plaintiff demands judgment against Defendant for all sums he is entitled to under the pleadings and proof contained herein including compensatory and punitive damages.



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Plaintiff demands trial by struck jury.



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